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SENATE BILL 395 By
Haynes

HOUSE BILL 772
By Briley

AN ACT to amend Tennessee Code Annotated, Title 13 and Title 67, relative to low-income housing property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, is amended by adding the following as a new, appropriately designated Part:

Part __ – Classification and Assessment – Low-Income Housing Property

67-5-__01. Legislative findings. — The general assembly finds that it is in the public interest and is a public purpose to encourage and assist in the creation and preservation of affordable rental housing for Tennessee's low-income individuals and families, and that adequate encouragement and assistance is lacking especially with respect to individuals and families with incomes below sixty percent (60%) of the median incomes in their respective areas.

67-5-__02. Definitions. — As used in this Part unless the context otherwise requires:

(1) "Low-income housing property" means land which is improved, or committed to be improved, with rental housing for low-income families and individuals if and only if the rental rates for such housing are restricted under government regulations pursuant to

Section 42 of the Internal Revenue Code or Section 515 of the Rural Development, United States Department of Agriculture;

(3) "LIHTC property" means low-income housing property restricted under government regulations pursuant to Section 42 of the Internal Revenue Code (the Low-Income Housing Tax Credit program);

(4) "FmHA 515 property" means low-income housing property restricted under government regulations pursuant to Section 515 of the Rural Development, United States Department of Agriculture;

(5) "Owner" means the person holding title to the land;

(6) "Present use value" means the value of land and improvements based on its current use as low-income housing property; and

(7) "Rollback taxes" means the amount of back tax differential payable under the provisions of § 67-5-__04.

67-5-__03. Classification as low-income housing property. — (a)(1) Any owner of land may apply for its classification as low-income housing property on any assessment roll of any county by filing an application for such classification with the tax assessor of such county by April 1 of the first year for which the classification is sought. In a year in which a general reappraisal of property is carried out in the county, an owner shall apply for such classification by April 1, or before the final yearly adjournment of the county board of equalization.

(2) The assessor shall determine whether such land is low-income housing property as defined above, and if such determination is made, the assessor shall classify and include it as such on the county tax roll. Such determination shall be established, with respect to LIHTC property, by the existence of a Carryover Allocation Agreement or its equivalent between the owner and the Tennessee Housing Development Agency or its successor, and with respect to FmHA 515 property, by the existence of an Obligation

of Funding or its equivalent between the owner and Rural Development, United States Department of Agriculture.

(b) The assessor of property shall discontinue the classification of land as low-income housing property unless the owner certifies, upon request of the assessor, that the land continues to meet the aforesaid definition of low-income housing property.

(c) The assessor shall request the certification under subsection (b) in the year of completion of every general reappraisal of property in the county, but in no event less frequently than every six (6) years. The certification need not be recorded, but shall be maintained with the assessor's records for the property. The certification shall be provided by the buyer upon any sale of property previously approved for classification, or the property shall be deemed to be disqualified by the sale. The certification due during reappraisal shall be filed with the assessor by the due date for applications. The certification by new purchasers shall be filed with the assessor by the due date for applications in the year following the purchase.

(d) Any person aggrieved by the denial of any application for the classification of land as low-income housing property has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of tax assessors or boards of equalization.

67-5-__04. Present use valuation — Rollback taxes — Involuntary conversion of use.

(a) When a parcel of land has been classified by the tax assessor as low-income housing property under the provisions of this Part, and subsequently ceases to meet the definition of low-income housing property, then its assessment shall be based upon its value in its immediate most suitable

economic use. It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property which might affect its eligibility under this Part.

(b)(1) After a parcel of land has been classified by the tax assessor as low-income housing property under the provisions of these sections, the tax assessor shall record it on a separate list for such classified property, and the assessor shall record with the register of deeds the application for such classification of the property. Any fees which may be required shall be paid by the property owner.

(2) Henceforth, the assessor shall appraise the land and compute the tax assessment each year based upon both:

(A) The relevant percent (twenty-five percent (25%) in the residential classification, forty percent (40%) in the commercial classification) of appraised value times its value ascertained without reference to this Part; and

(B) The relevant percent (twenty-five percent (25%) in the residential classification, forty percent (40%) in the commercial classification) of appraised value times its low-income housing property value as determined under this Part; however, so long as the land maintains its classification as low-income housing property, taxes shall be assessed and paid only on the basis of value as low-income housing property under the provisions of this Part.

(3) The taxes computed under this Part shall be used to compute the rollback taxes, as defined in § 67-5-__04 and as provided for in subsection (d).

(c) A parcel of land classified by the tax assessor as low-income housing property under the provisions of this Part shall be valued in accordance with its present use value as defined above. Present use value shall be determined by reference to its net income from its restricted rents, and shall not take into

account or assign any value to low-income housing tax credits authorized or awarded to the property pursuant to Section 42 of the Internal Revenue Code or to the low interest rate provided pursuant to Section 515 of the Rural Development, United States Department of Agriculture.

(d)(1) The appropriate assessor shall compute the amount of taxes saved by the difference in present use value assessment and value assessment as low-income housing property for each of the preceding three (3) years, and the assessor shall notify the trustee that such amount is payable, if:

(A) Except as a result of fulfillment and expiration of the rental rate restrictions under government regulations pursuant to Section 42 of the Internal Revenue Code or Section 515 of the Rural Development, United States Department of Agriculture, such land ceases to qualify as low-income housing property; or

(B) The owner of such land requests (in writing) that the classification as low-income housing property be withdrawn.

(2) Such amount shall be the rollback taxes to be levied and collected on the first tax roll prepared after such taxes become payable under the provisions of subdivision (d)(1).

(3)(A) If, under the provisions of subdivision (d)(1), only a portion of a parcel is subject to rollback taxes, the tax assessor shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

(e)(1) In the event that any land classified under this part as low-income housing property or any portion thereof is converted to a use other than

those stipulated herein by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such land or any portion thereof involuntarily converted to such other use shall not be subject to rollback taxes by the landowner, and the agency or body doing the taking shall be liable for the rollback taxes.

(2) In the event the land involuntarily converted to such other use constitutes only a portion of a parcel so classified on the assessment rolls, the assessor shall apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll.

(3) In the event that any land classified under this part as low-income housing property or any portion thereof is acquired by a bank, as defined in § 45-2-107(a)(1)(A), by a savings and loan association, as defined in § 45-3-104(a)(1), or by a holder of a deed of trust or mortgage in satisfaction or partial satisfaction of a debt previously contracted in good faith, such land or any portion thereof so acquired shall not be subject to rollback taxes assessed against or payable by the bank or savings and loan association, and shall be subject to rollback taxes only if the land is used for a non-low-income house purpose or after such land is sold by the bank, savings and loan association or a holder of a deed of trust or mortgage and then only as provided in subsection (d).

(f) If the sale of low-income housing property will result in such property being disqualified as low-income housing property due to conversion to an ineligible use or otherwise, the seller shall be liable for rollback taxes unless otherwise provided by written contract. If the buyer declares in writing at the time of sale an intention to continue the low-income housing property classification but fails to file any form necessary to continue the classification within ninety (90)

days from the sale date, the rollback taxes shall become solely the responsibility of the buyer.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.